IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.3621 of 2007
Date of Decision: 9.3.2007

Krishan

Petitioner

versus

The Presiding Officer and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Vijay Singh Kajla, Advocate for the petitioner

Jasbir Singh, J. (Oral)

By filing this writ petition, the petitioner has laid challenge to the award passed by the Industrial Tribunal-cum-Labour Court, Hisar on 20.9.2005, vide which, prayer of the petitioner, to reinstate him in service, was declined. While dismissing his application, the Court below has observed thus:-

> *"9.The workman has sought to argue that there was no entry regarding abandonment of job in the attendance record maintained by the management and, therefore, it must be presumed that his services were terminated. The court regrets its inability to accept the contention. Going by the workman's own version, his services were terminated on 31.12.1993. There is no denying the fact that he took no action to challenge his termination for more than seven and half years. He opted to issue demand notice challenging his termination on 24.7.2000. He has furnished no explanation as to why he did not challenge the termination promptly within a reasonable*

period. His conduct is, therefore, in itself sufficient to draw a presumption that he had left the service. So, there is no scope to hold that the management has illegally terminated his service. This issue is decided against the workman.

10.The management on the strength of Nedungadi Bank Ltd. vs. K.P. Madhavankutty, 2000(1) SCT 1088 and General Manager Punjab Roadways, Nawanshehar vs. Sarsander Kumar, 1997(2) SLR 266 has argued that workman's claim is liable to be rejected as it suffers from delay and laches. The workman on the other hand, has cited General Manager, Punjab Roadways Batala vs. Joginder Singh and another 2004 (4) RSJ 47, The Management of the Managing Director Haryana Warehousing Corporation vs. The Presiding Officer Labour Court, Ambala and another, 2001(3) RSJ 456; Piara Singh vs. State of Haryana and others 2001(4) RSJ 12 and Ajaib Singh vs. The Sirhind Cooperative Marketing-cum-Processing, 1999(2) RSJ 407to contend that there is no period of limitation prescribed in respect of proceedings under the Act and, therefore, claim cannot be treated as time barred. The Court has perused the rulings. The abstract principle of law which emerges from the cited rulings is that the provisions of limitation are not applicable to the proceedings under the Industrial Disputes Act, 1947 and the relief cannot be denied to a workman on the ground of delay. The Hon'ble High Court of Punjab and Haryana in Sarsander Kumar's case (supra) while dealing with a case involving delay of more than five years in raising an industrial dispute has held that such delay

tantamounts to abandonment of claim on the part of workman. The workman in the present case has not challenged his termination for more than seven and half years. He has also not furnished explanation for the delay in raising the industrial dispute. So, delay on his part, in the light of dictum of Sarsander Kumar's case (supra), amounts to abandonment of his claim for reinstatement. This issue is accordingly disposed of in favour of the management."

We feel that the finding given is perfectly justified. Very fact that the petitioner failed to agitate against the alleged termination, in a prompt manner, shows that the version put forward by the management that the petitioner workman has abandoned service, appears to be correct. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

March 09, 2007 **(Nirmal Yadav)**
gk **Judge**